



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8

**999 18th STREET - SUITE 300
DENVER, COLORADO 80202-2466**

September 11, 2003

Ref: 8ENF-T

CERTIFIED MAIL

RETURN RECEIPT REQUESTED

Sheridan County Commissioners
c/o Ky Dixon, Chair
224 South Main, Suite B-1
Sheridan, WY 82801

Re: Notice of Safe Drinking Water
Act Enforcement Action against
Spear-O-Wigwam
PWS #5600720

Dear County Commissioners:

Pursuant to Section 1414(a)(2)(B) of the 1996 amendments to the Safe Drinking Water Act (SDWA), the Environmental Protection Agency (EPA) is required to notify an appropriate locally elected official of any action taken in a State that does not have primary enforcement authority for public water systems. The State of Wyoming does not have primary enforcement authority for public water systems under the SDWA.

An Administrative Order is being issued under Section 1414 of the SDWA to Spear-O-Wigwam, Sheridan, Wyoming. This Order requires that the public water system take measures to return to compliance with the SDWA and the National Primary Drinking Water Regulations. The System is in violation of 40 C.F.R. §§ 141.63(a)(2), 141.21(b), 141.21(b)(5), 141.31(b), 141.21(g)(1), 141.21(g)(2), and 141.201 for: bacteriological maximum contaminant level violations; failure to perform repeat monitoring for bacteriological quality; failure to perform additional routine monitoring for bacteriological quality; failure to report SDWA and total coliform violations to EPA; and failure to provide public notice of the violations.

A copy of the Order is enclosed for your information. The Order does not require any response or action by the County Commission. If you have any questions regarding this Order, please contact Olive Hofstader at (303) 312-6467.

Sincerely,

SIGNED

Diane L. Sipe, Director
Technical Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice

Enclosure



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8
999 18TH STREET - SUITE 300
DENVER, CO 80202-2466
Phone 800-227-8917
<http://www.epa.gov/region08>

September 11, 2003

Ref: 8ENF-T

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

J.W. Riehm, Owner
c/o Corporation Service Company, Registered Agent
1821 Logan Ave.
Cheyenne, Wyoming 82001

Re: Administrative Order
Docket No. **SDWA-08-2003-0051**
Spear-O-Wigwam Ranch, Inc.
PWS ID #WY5600720

Dear Mr. Riehm:

Enclosed you will find an Administrative Order (Order), which the Environmental Protection Agency (EPA) has issued under the authority of the Safe Drinking Water Act (SDWA), 42 U.S.C. Section 300f et seq., and its implementing regulations. Among other things, the Administrative Order finds that the Spear-O-Wigwam Ranch Water System ("System") is a public water supplier as defined by the SDWA and that the owner of the System has violated the National Primary Drinking Water Regulations ("NPDWRs") at 40 CFR §§ 141.63(a)(2), 141.21(b), 141.21(b)(5), 141.31(b), 141.21(g)(1), 141.21(g)(2), and 141.201 for: bacteriological maximum contaminant level violations; failure to perform repeat monitoring for bacteriological quality; failure to perform additional routine monitoring for bacteriological quality; failure to report SDWA and total coliform violations to EPA; and failure to provide public notice of the violations.

If the System owner complies with the enclosed Order for a period of at least twelve months, EPA may choose to close the Order. Violating the enclosed Order may lead to (1) a penalty of up to \$27,500 per day of violation of the Order, (2) a separate such penalty for violating the regulations themselves, and/or (3) a court injunction ordering compliance.



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EPA encourages your public water system operator or manager to complete operator certification training courses. Please contact Louise Cordova at (307)777-7781 with the Wyoming Department of Environmental Quality to learn about available training opportunities.

Also enclosed is a Small Business Regulatory Enforcement and Fairness Act (SBREFA) Section 22 information sheet. The SBREFA sheet notifies small businesses of their right to comment on regulatory enforcement activities, and provides information on compliance assistance. Dissemination of this information sheet does not constitute an admission or determination by EPA that the business, organization or governmental jurisdiction is a small entity as defined by SBREFA.

Please note that the effective date of the enclosed Order is the date of issuance. Within the next 10 days, please provide EPA with any new information that you believe the Agency is not aware of relating to the alleged violations in the Order. The information should be sent to Olive Hofstader at the address on the letterhead and include the mailcode 8ENF-T, or call (800)227-8917, extension 6467 or (303)312-6467. If you wish to have an informal conference with EPA, you may also call or write Ms. Hofstader. If you are represented by an attorney or have legal questions, please call Wendy Silver at the above number extension 6637 or at (303)312-6637.

We urge your prompt attention to this matter.

Sincerely,

SIGNED

Diane L. Sipe, Director
Technical Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice

Enclosures
Order
SBREFA
Sample public notice

cc: Ann and Dale Voigtlander, PWS operators
Larry Robinson, Wyoming DEQ
Dr. Karl Musgrave, Wyoming DOH
William T. Bass, Forest Supervisor

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

IN THE MATTER OF)	
)	
Spear-O-Wigwam Ranch, Inc.)	
Sheridan, Wyoming)	
)	
Respondent)	
)	ADMINISTRATIVE ORDER
Proceedings under Section 1414(g))	
of the Safe Drinking Water Act,)	
42 U.S.C. § 300g-3(g))	Docket No. SDWA-08-2003-0051
)	

The following Findings are made and Order issued under the authority vested in the Administrator of the U.S. Environmental Protection Agency (EPA) by Section 1414(g) of the Safe Drinking Water Act (the Act), 42 U.S.C. § 300g-3(g) and its implementing regulations, as properly delegated to the Supervisors of the Technical and Legal Enforcement Programs of the Office of Enforcement, Compliance and Environmental Justice, EPA Region 8.

FINDINGS

1. Spear-O-Wigwam Ranch, Inc. (Respondent) is a corporation under the laws of the state of Wyoming as of January 18, 1973 and is therefore a "person" within the meaning of 40 C.F.R. § 141.2.
2. Respondent owns and/or operates a system, Spear-O-Wigwam Ranch Water System (the "System"), located in Sheridan County, Wyoming for the provision to the public of piped water for human consumption.
3. The Spear-O-Wigwam Ranch Water System has at least 15

service connections or regularly serves an average of at least 25 individuals daily at least 60 days out of the year and is therefore a "public water system" within the meaning of Section 1401(4) of the Act, 42 U.S.C. § 300f(4), and a "non-community water system" within the meaning of 40 C.F.R. § 141.2.

4. Respondent owns and/or operates a public water system and is therefore a "supplier of water" within the meaning of Section 1401(5) of the Act, 42 U.S.C. § 300f(5) and 40 C.F.R. § 141.2. Respondent is therefore subject to the requirements of Part B of the Act, 42 U.S.C. § 300g, and its implementing regulations, 40 C.F.R. Part 141.
5. According to a July 8, 2002 sanitary survey by an agent for EPA, Respondent operates a system that is supplied solely by a ground water source consisting of one spring. The system serves approximately 30 persons per day through 13 service connections, and is open seasonally, June 1 through September 30.

FINDINGS OF VIOLATION

I.

1. 40 C.F.R. § 141.21 requires the owner and/or operators of non-community public water systems to monitor the water at least once per quarter to determine compliance

with the maximum contaminant level (MCL) for total coliform bacteria as stated in 40 C.F.R. § 141.63.

2. 40 C.F.R. § 141.63(a)(2) imposes and defines the MCL for total coliform bacteria, applicable to public water systems collecting fewer than 40 samples per month, as no more than one sample collected during the month may be positive for total coliform bacteria.
3. Monitoring results submitted by Respondent for the months of July 2002, August 2002, and July 2003 exceeded the MCL for total coliform bacteria, in violation of 40 C.F.R. § 141.63(a)(2).

II.

1. 40 C.F.R. § 141.21(b) requires public water systems to collect a set of repeat samples within 24 hours of being notified of a total coliform positive routine sample.
2. Respondent failed to collect a complete set of repeat samples within 24 hours of being notified of a total coliform positive routine sample during the month of August 2002, in violation of 40 C.F.R. § 141.21(b).

III.

1. 40 C.F.R. § 141.21(b)(5) requires public water systems that collect fewer than 5 routine samples per month and have one or more total coliform positive samples to

collect at least 5 routine samples during the next month the system provides water to the public.

2. Respondent failed to collect at least 5 routine samples following total coliform positive samples during August 2002 and September 2002, in violation of 40 C.F.R. § 141.21(b) (5) .

IV.

1. 40 C.F.R. § 141.201 requires owners and/or operators of public water systems to notify the public of any national primary drinking water regulation ("NPDWR") violations, including violations of the maximum contaminant level ("MCL"), maximum residual disinfection level ("MRDL"), treatment technique ("TT"), monitoring requirements, and testing procedures in 40 C.F.R. Part 141.
2. Respondent has not provided sufficient public notice of the noncompliance detailed in the preceding Sections I through III, in violation of 40 C.F.R. § 141.201.

V.

1. 40 C.F.R. § 141.21(g) (1) requires public water systems that have exceeded the total coliform MCL as defined by 40 C.F.R. § 141.63(a) (2) to report the violation to EPA no later than the end of the next business day after it learns of the violation.

2. Respondent failed to report to EPA the noncompliance detailed in Section I, in violation of 40 C.F.R. § 141.21(g)(1).

VI.

1. 40 C.F.R. § 141.21(g)(2) requires public water systems that have failed to comply with a total coliform monitoring requirement under 40 C.F.R. § 141.21 to report the monitoring violation to EPA within 10 days after the system discovers the violation.
2. Respondent failed to report to EPA the noncompliance detailed in Sections II and III, in violation of 40 C.F.R. § 141.21(g)(2).

VII.

1. 40 C.F.R. § 141.31(b) requires public water systems to report any failure to comply with any National Primary Drinking Water Regulation (40 C.F.R. Part 141) to EPA within 48 hours.
2. Respondent failed to report to EPA the noncompliance detailed in Section IV, in violation of 40 C.F.R. § 141.31(b).

ORDER

Based on the foregoing Findings, and pursuant to Section 1414(g) of the Act, IT IS ORDERED:

1. Upon the effective date of this Order, Respondent shall

begin an investigation to determine the cause of the total coliform MCL violations for the Spear-O-Wigwam Ranch Water System.

2. Within 30 days of this Order, Respondent shall submit detailed plans to EPA for bringing Respondent's public water system into consistent compliance with the total coliform MCL at 40 C.F.R. § 141.63 within 2 years of the effective date of this Order. The plans shall include the suspected cause of contamination, proposed system or operational modifications, estimated costs of modifications and a schedule for implementing the approved plan. The schedule shall include specific milestone dates and a final compliance date. The plans must be approved by EPA before implementation can commence.
3. The schedule for construction and completion of modifications will be incorporated into the Order upon written approval by EPA.
4. Commencing within 90 days after EPA approves Respondent's plan, Respondent shall submit to EPA quarterly reports on the progress made toward bringing Respondent's system into compliance with the bacteriological MCL at 40 C.F.R. §141.63.
5. Respondent shall complete system or operational

modifications to its system no later than two years from the effective date of this Order.

6. If the system or operational modifications are not completed prior to serving water to the public for the 2004 operational season, Respondent shall provide continuous disinfection and maintain a minimum chlorine residual of 0.2 mg/l throughout the distribution system upon opening for the 2004 operational season.
7. Upon the effective date of this Order, Respondent shall comply with all repeat monitoring requirements specified in 40 C.F.R. § 141.21(b). This requires that Respondent take no fewer than 4 repeat samples within 24 hours of being notified of a total coliform positive routine sample. Each repeat sample is to be analyzed for total coliform bacteria. At least one repeat sample must be taken from each of the following: a) the tap where the original total coliform positive sample was taken, b) from within 5 service connections upstream of the original total coliform positive tap, and c) from within 5 service connections downstream from the original total coliform positive tap. The fourth repeat sample is to be taken anywhere within 5 service connections upstream or downstream of the original total coliform positive tap. Respondent shall

report analytical results to EPA within the first 10 days following the end of the monitoring period, as required by 40 C.F.R. § 141.31(a).

8. Upon the effective date of this Order, Respondent shall comply with all repeat sampling requirements specified in 40 C.F.R. § 141.21(b). If Respondent's water system has one or more total coliform positive samples in a month, Respondent shall collect at least 5 routine samples during the next month the system provides water to the public. Respondent shall report analytical results to EPA within the first 10 days following the end of the monitoring period, as required by 40 C.F.R. § 141.31(a).
9. Immediately upon opening for the 2004 operational season, Respondent must provide public notice of the violations specified under the Findings of Violation in Sections I through III, in this Order, to return to compliance with 40 C.F.R. §§ 141.201, 141.203 and 141.205. This notice must be given by any one of the following methods: (1) posting the notice in conspicuous locations throughout the distribution system frequented by persons served by the system; (2) by mail or direct delivery to each customer and service connection; AND (3) any other method reasonably

calculated to reach other persons served by the system, if they would not normally be reached by the notice described in (1) and (2), including publication in a local newspaper or newsletter distributed to customers; use of E-mail to notify employees or students; or, delivery of multiple copies in central locations. Upon the effective date of this Order, Respondent shall comply with the public notification requirements at 40 C.F.R. § 141.201 et seq. following any future NPDWR violation. Respondent shall submit a copy of the public notice to EPA within 10 days of completion of the public notice, as required by 40 C.F.R. § 141.31(d).

10. Upon the effective date of this Order, Respondent shall comply with 40 C.F.R. § 141.21(g)(1) by reporting any failure to comply with the total coliform MCL as defined by 40 C.F.R. § 141.63(a)(2) to EPA by the end of the next business day after the system discovers the violation.
11. Upon the effective date of this Order, Respondent shall comply with 40 C.F.R. § 141.21(g)(2) by reporting any failure to comply with coliform monitoring requirements under 40 C.F.R. § 141.21 to EPA within ten days after the system discovers the violation.

12. Upon the effective date of this Order, Respondent shall comply with 40 C.F.R. § 141.31(b) by reporting any failure to comply with any National Primary Drinking Water Regulation (40 C.F.R. Part 141) to EPA within 48 hours.
13. Reporting requirements specified in this Order shall be provided by certified mail to:

Olive Hofstader
U. S. EPA Region 8 (8ENF-T)
999 18th Street, Suite 300
Denver, Colorado 80202-2466

GENERAL PROVISIONS

1. This Order does not constitute a waiver, suspension, or modification of the requirements of 40 C.F.R. § 141.1 et seq., or the Safe Drinking Water Act, which remain in full force and effect. Issuance of this Order is not an election by EPA to forgo any civil or criminal action otherwise authorized under the Act.
2. Violation of any term of this Order instituted under Section 1414(g) (3) (A), 42 U.S.C. § 300g-3(g) (3) (A), may subject the Respondent to an administrative civil penalty of up to \$25,000 per day of violation under Section 1414(g) (3) (B) of the Act, 42 U.S.C. § 300g-3(g) (3) (B), or a civil penalty of not more than \$27,500 per day of violation assessed by an appropriate U.S. District Court under Section 1414(g) (3) (C) of the Act,

42 U.S.C. § 300g-3(g) (3) (C) .

3. Violation of any requirement of the SDWA or its implementing regulations instituted under Section 1414(b), 42 U.S.C. § 300g-3(b), may subject Respondent to a civil penalty of not more than \$27,500 per day of violation assessed by an appropriate U.S. District Court under Section 1414(b) of the Act, 42 U.S.C. § 300g-3(b) .
4. The effective date of this Order shall be the date of issuance of this Order.

Issued this 11TH day of September, 2003.

David J. Janik

Michael T. Risner, Director
David J. Janik, Supervisory Attorney
Legal Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice

SIGNED

Diane L. Sipe, Director
Technical Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice

IF YOU WOULD LIKE COPIES OF THE ATTACHMENTS, PLEASE CONTACT THE REGIONAL HEARING CLERK.

THIS DOCUMENT WAS FILED IN THE RHC'S OFFICE ON SEPTEMBER 11, 2003.